

CR 55. DEFAULT

(a) Entry of Default. Upon motion by a party noted in accordance with CR 7(d)(1) and supported by affidavit or otherwise, the clerk shall enter the default of any party against whom a judgment for affirmative relief is sought but who has failed to plead or otherwise defend. The affidavit shall specifically show that the defaulting party was served in a manner authorized by Fed. R. Civ. P. 4. A motion for entry of default need not be served on the defaulting party. However, in the case of a defaulting party who has entered an appearance, the moving party must give the defaulting party written notice of the requesting party's intention to move for the entry of default at least five judicial days prior to filing its motion and must provide evidence that such notice has been given in the motion for entry of default.

(b) Judgment on Default.

(1) By the Clerk. The clerk may not enter judgment by default in the case of a defaulting party who has entered an appearance, or who is an infant or incompetent, or who is or may be in the military service. In addition, a claim for "reasonable attorney's fees" is not for a sum certain under Fed. R. Civ. P. 55(b)(1) unless the complaint states the amount of fees sought. Motions to have the clerk enter a default judgment shall be noted in accordance with CR 7(d)(1). A motion for entry of default judgment by the clerk need not be served on the defaulting party.

(2) By the Court. In all other cases, including instances where a defaulting party has entered an appearance, is an infant or incompetent, or is or may be in the military service, a motion for entry of a judgment by default must be addressed to the court. If there has been no appearance in the action by the defaulting party, the motion shall be noted in accordance with CR 7(d)(1), but it need not be served on the defaulting party and notice of the motion need not be given to the defaulting party. If the defaulting party has appeared, the motion shall be noted in accordance with CR 7(d)(2), and service of all papers filed in support of the motion must be made at the defaulting party's address of record. In the absence of an address of record, service shall be made at the defaulting party's last known address. The court may conduct such hearing or inquiry upon a motion for entry of judgment by default as it deems necessary under the circumstances of the particular case.

[Effective May 1, 1992; amended effective July 1, 1997; January 1, 2002.]